IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO.3943 of 2005

DATE OF DECISION: January 8, 2007

Balwinder Singh and others

….Appellants.

VERSUS

Arjan Singh and others

….

Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

PRESENT: Shri L.S.Sidhu, Advocate for the appellants.

Viney Mittal,J.

The defendants having concurrently lost before the two Courts below are in second appeal before this Court.

A suit for permanent injunction was filed by the plaintiff. It has been claimed that the plaintiffs are owner in possession of the land described in plaint. It was also claimed that there was a sanctioned passage which was being used by the plaintiffs running through rectangle No.10 killa No.15,14 and 13 and also a part of killa No.12. The aforesaid passage is also depicted in aks shajra. The plaintiffs pleaded that the defendants without any right or interest were trying to obstruct or close the aforesaid passage. The plaintiffs claimed that the defendants had absolutely no right to do so. On appearance by the defendants, they sought opportunity to file written statement. However, on repeated opportunities having been granted,

they did not file the written statement and ultimately their defence was

struck off. However, the defendants were allowed to cross-examine the witnesses of the plaintiffs.

Both the Courts below have concurrently held that the passage in question was a duly sanctioned passage and was in existence as pleaded by the plaintiffs and that the defendants had absolutely no right to obstruct the said passage in any manner. Consequently, the suit filed by the plaintiffs was decreed by the trial Court and the appeal filed by the defendants failed before the learned First Appellate Court.

Nothing has been shown that the findings of fact recorded by the two Courts below suffer from any infirmity or are contrary to the record in any manner.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

January 8, 2007 (Viney Mittal)
KD Judge